

1 QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
2 Timothy L. Alger (Bar No. 160303)
3 Steven B. Stiglitz (Bar No. 222667)
4 865 South Figueroa Street, 10th Floor
5 Los Angeles, California 90017-2543
6 Telephone: (213) 624-7707
7 Facsimile: (213) 624-0643

8 Attorneys for Defendant Roommate.com, LLC

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 FAIR HOUSING COUNCIL OF SAN)
12 FERNANDO VALLEY; FAIR)
13 HOUSING COUNCIL OF SAN)
14 DIEGO, individually and on behalf of)
15 the GENERAL PUBLIC,)

16 Plaintiffs,)

17 v.)

18 ROOMMATES.COM, LLC,)

19 Defendant.)
20)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO. CV03-9386 PA (RZx)

**SUPPLEMENTAL
DECLARATION OF BRYAN
PETERS**

Date: September 13, 2004

Time: 1:30 p.m.

Place: Courtroom 15

Honorable Percy Anderson

Complaint filed: December 22, 2003

Pre-trial Conf.: October 15, 2004

Trial Date: November 9, 2004

1 **SUPPLEMENTAL DECLARATION OF BRYAN PETERS**

2
3 I, Bryan Peters, declare:

4 1. I make this Supplemental Declaration in support of
5 Roommate's Motion for Summary Judgment and in opposition to plaintiffs'
6 Motion for Summary Judgment. I am one of the principals of Roommate.com,
7 LLC ("Defendant" or "Roommate"). I am also the President of Vianet Internet
8 Services, LLC, which wholly owns Roommate.com, LLC. Roommate is a family
9 business and 6 of its 10 employees are members of my family. I was the primary
10 developer of Roommate's website("Roommates.com" or "the Site"). Except where
11 indicated by the context, I have personal knowledge of all the facts stated here,
12 and could testify thereto if called as a witness.

13 2. Neither Roommate.com, LLC nor Roommates.com existed in
14 2001.

15 3. Roommates.com users post for the purpose of finding living
16 companions and shared housing. Roommates.com users may use the Site without
17 paying to upgrade their memberships. Some users may choose to pay to upgrade
18 their memberships so that they can take advantage of more advanced features of
19 the Site. These users who do pay for memberships are paying for time on the
20 service (*i.e.* \$5.99 for a 3-day trial, \$19.99 for 30 days, and \$29.99 for 60 days).

21 4. No Roommate employee visits the rooms, apartments, homes,
22 or buildings described in postings by users on Roommates.com.

23 5. No Roommate employee speaks with Site members to discuss
24 the operations of the buildings or houses in which the users live.

25 6. Roommate does not have a financial interest in real property
26 owned by users of its Site.

27 7. Roommate is not employed by landlords or users of its Site to
28 manage buildings or houses (or screen prospective tenants for that matter).

1 8. Roommate does not screen the postings of any user, whether the
2 user is offering to share a home or looking for a home to share.

3 9. Roommate is not involved in any decision-making by any
4 person regarding postings on the Site or regarding the sharing of homes.

5 10. Roommate is not involved in the sale or rental of dwellings.

6 11. Roommate does not perform any of the following functions with
7 respect to any room, apartment, home, or building lived in or owned by users of
8 Roommates.com:

9 (a) Establish the rental schedule that will bring the highest
10 yield consistent with good economics.

11 (b) Merchandise the space and collect the rent.

12 (c) Create and supervise maintenance schedules and repairs.

13 (d) Insure independent contractor status.

14 (e) Set up payroll system for all employees.

15 (f) Develop a tenant/resident relations policy.

16 (g) Supervise employees and develop employee policies,
17 including an Injury Prevention Plan.

18 (h) Maintain proper records and make regular reports to the
19 owner.

20 (i) Qualify and investigate a prospective tenant's credit.

21 (j) Prepare and execute leases.

22 (k) Obtain decorating specifications and secure estimates.

23 (l) Hire, instruct, and maintain satisfactory personnel to staff
24 the building(s).

25 (m) Audit and pay bills.

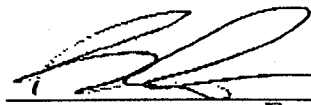
26 (n) Advertise and publicize vacancies through selected media
27 and broker lists.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (o) Recommend alterations and modernization as the market dictates.
- (p) Inspect vacant space frequently.
- (q) Keep abreast of the times and competitive market conditions.
- (r) Obtain and pay insurance premiums and taxes.
- (s) Be knowledgeable about and comply with applicable Federal, State and local laws.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 27, 2004, at Phoenix, Arizona.



Bryan Peters

PROOF OF SERVICE

1013A(3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES,

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 865 S. Figueroa Street, 10th Floor, Los Angeles, California 90017.

On August 27, 2004, I served the foregoing document(s) described as: **SUPPLEMENTAL DECLARATION OF BRYAN PETERS** on the interested party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Gary W. Rhoades
Law Offices of Gary W. Rhoades
834 1/2 S. Mansfield Ave.
Los Angeles, CA 90036
Telephone: (323) 937-7095; Fax: (775) 640-2274

 X **BY MAIL**

_____ *I deposited such envelope in the mail at _____, California.

_____ The envelope was mailed with postage thereon fully prepaid.

_____ I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

 X **BY PERSONAL SERVICE** I caused to be delivered such envelope by hand to the offices of the addressee.

_____ **BY TELECOPIER** By transmitting the above listed document(s) to the fax number(s) set forth on this date.


_____ **BY FEDERAL EXPRESS** by placing the document(s) listed above in such envelope for deposit with **FEDERAL EXPRESS** to be delivered via priority overnight service to the persons at the addresses set forth above.

Executed on August 27, 2004, at Los Angeles, California.

_____ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

 X (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DAVID CLARK
Type or Print Name


Signature